

REFERENCE TITLE: **human smuggling; material witnesses**

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# **SB 1183**

Introduced by  
Senators Jarrett, Bee; Representative Paton

AN ACT

AMENDING SECTIONS 13-2319, 13-4082 AND 13-4083, ARIZONA REVISED STATUTES;  
RELATING TO HUMAN SMUGGLING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 13-2319, Arizona Revised Statutes, is amended to  
3 read:

4              13-2319. Smuggling; classification; definition

5       A. It is unlawful for a person to intentionally engage in the  
6 smuggling of human beings for profit or commercial purpose.

7       B. A violation of this ~~statute~~ SECTION is a class 4 felony.

8       C. A DEFENDANT MAY BE CHARGED WITH ONLY ONE COUNT UNDER THIS SECTION  
9 UNLESS MORE THAN ONE HUMAN BEING IS SMUGGLED. IF MORE THAN ONE HUMAN BEING  
10 IS SMUGGLED, A SEPARATE COUNT MAY BE CHARGED FOR EACH SMUGGLED HUMAN BEING.

11       D. For the purposes of this section, "smuggling of human beings"  
12 means the transportation or procurement of transportation by a person or an  
13 entity that knows or has reason to know that the person or persons  
14 transported or to be transported are not United States citizens, permanent  
15 resident aliens or persons otherwise lawfully in this state.

16       Sec. 2. Section 13-4082, Arizona Revised Statutes, is amended to read:

17              13-4082. When further security may be required

18       When IF the magistrate from the proceedings had before him or from  
19 testimony on oath has reasonable ground to believe that any witness who has  
20 entered into ~~such AN~~ undertaking ~~as provided in PURSUANT TO~~ section 13-4081  
21 will not appear and testify unless further security is required, ~~he~~ THE  
22 MAGISTRATE may order the witness to give further security for ~~his~~ THE  
23 WITNESS' appearance,~~either~~ by EITHER:

24       1. Entering into a written undertaking with such sureties and in such  
25 amount as the magistrate deems proper. ~~, or by depositing money or bonds~~

26       2. POSTING A BOND IN AN AMOUNT THAT THE MAGISTRATE DEEMS PROPER, as  
27 provided ~~upon~~ ON the admission of a defendant to bail.

28       Sec. 3. Section 13-4083, Arizona Revised Statutes, is amended to read:

29              13-4083. Procedure when witness does not give security

30       A. If a witness WHO IS required to enter into an undertaking to appear  
31 to testify either with or without security refuses compliance with the order  
32 for that purpose OR DOES NOT POST THE REQUIRED BOND, the magistrate shall  
33 commit ~~him~~ THE WITNESS to custody until ~~he~~ THE WITNESS complies or is legally  
34 discharged.

35       B. When it satisfactorily appears by examination on oath of the  
36 witness or any other person that the witness is unable to give further  
37 security as provided in section 13-4082, the magistrate shall make an order  
38 finding such fact and the witness shall be detained pending application for  
39 ~~his~~ THE WITNESS' conditional examination.

40       C. ~~Within three days from the entry of such order, ON APPLICATION FOR~~  
41 ~~THE CONDITIONAL EXAMINATION OF THE WITNESS AND ON THE ENTRY OF THE ORDER,~~ the  
42 witness so detained may be conditionally examined ~~in~~ ON behalf of the state  
43 or the defendant on application made for that purpose. ~~Such~~ THE examination  
44 shall be by question and answer in the presence of the other party, or when a  
45 witness for the state is being examined, after notice to the defendant if on

1 bail. The examination shall be conducted in the same manner as the  
2 examination of witnesses before a committing magistrate is required to be  
3 conducted. At the completion of the examination the witness shall be  
4 discharged, and ~~his~~ THE WITNESS' testimony may be admitted in evidence at the  
5 trial under the same conditions and for the same purpose as the testimony of  
6 a defendant or witness testifying at a preliminary hearing.

7 ~~C.~~ D. If no conditional examination is held within the period of  
8 three days, the witness so detained shall be ~~forthwith~~ discharged.

9 E. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, IF THE EXAMINATION  
10 CANNOT BE ACCOMPLISHED WITHIN THREE DAYS OF THE ORDER, THE WITNESS MAY BE  
11 DETAINED FOR A PERIOD OF TEN DAYS AFTER THE ENTRY OF THE ORDER IF THE  
12 DEFENDANT TO THE ACTION IS IN CUSTODY, FOR A PERIOD OF TWENTY DAYS AFTER THE  
13 ENTRY OF THE ORDER IF THE DEFENDANT IS OUT OF CUSTODY OR FOR A REASONABLE  
14 PERIOD OF TIME AS DETERMINED BY THE JUDGE. IF AT ANY TIME DURING THE PERIOD  
15 OF DETAINMENT IT IS POSSIBLE TO CONDUCT THE EXAMINATION, THE EXAMINATION  
16 SHALL BE CONDUCTED AND THE WITNESS SHALL BE RELEASED IMMEDIATELY.